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8 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
9 AT TACOMA

10 William James Mathew Wallace II,

11 Plaintiff,

12 v.

13 Department of Corrections of Washington  
14 et al.,

15 Defendant.

CASE NO. 3:19-cv-05330-RJB-JRC

ORDER

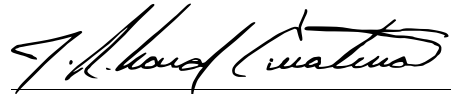
16 The District Court has referred this 42 U.S.C. § 1983 civil rights action to United States  
17 Magistrate Judge J. Richard Creatura. Plaintiff William James Mathew Wallace II, proceeding  
18 *pro se* and *in forma pauperis*, filed this civil rights complaint under § 1983. Before the Court is  
19 the parties' stipulated partial motion to dismiss. Dkt. 53.

20 In the motion, the parties jointly move for an order dismissing plaintiff's legal access and  
21 property claims and that the case continue on plaintiff's Eighth Amendment and Americans with  
22 Disabilities Act ("ADA") claims. Dkt. 53. However, the parties did not specify whether they  
23 have agreed whether dismissal of plaintiff's legal access and property claims should be with or  
24

1 without prejudice. *See* Dkt. 53. Before issuing a recommendation on the parties' motion, the  
2 Court finds that a supplemental memo is necessary to clarify whether the stipulated dismissal  
3 should be with or without prejudice. The parties are directed to file the supplemental memo on or  
4 before November 8, 2019. If no supplemental memo is filed, the Court will recommend  
5 dismissal of the claims without prejudice. *See Hargis v. Foster*, 282 F.3d 1154, *amended by* 312  
6 F.3d 404, 406 (9th Cir. 2002) (The Ninth Circuit has indicated that, if a plaintiff fails to specify  
7 whether the request is for dismissal with or without prejudice, the matter is left to the discretion  
8 of the lower court.).

9 The Court directs the Clerk's Office to re-note the stipulated motion to dismiss (Dkt. 53)  
10 for November 8, 2019.

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12 Dated this 24th day of October, 2019.

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16 J. Richard Creatura  
17 United States Magistrate Judge  
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